

Appl. No. 10/718,200
Amdt. dated July 26, 2006
Reply to Office Action of May 2, 2006

REMARKS

This communication is responsive to the Office Action mailed May 2, 2006. Claims 1 and 14-17 have been amended in response to the objections and rejections stated therein and are now believed to be in condition for allowance. Applicants respectfully request consideration of the claims and an early allowance thereof.

Applicants acknowledge with thanks the allowability of claim 10.

Claims 1, 4, 12 and 14-17 have been amended to more clearly define the invention. The features of claim 2 have been incorporated into claim 1. Claim 2 has been cancelled as being redundant. Claims 4 and 15 have been amended, as well as several paragraphs in the specification, to correct the spelling of "terephthalate." Other amendments to the specification have been made to correct obvious or typographical errors. No new matter is included in any of the amendments herein.

Claims 1-17 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention. In reference to the packaged product, the definite article "the" has been amended to "a" in line 3 of claim 1, removing the need for antecedent basis of that feature.

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Claims 14-17 stand rejected under 35 U.S.C. § 112 and 35 U.S. C. § 101 since the claims include both an apparatus and method steps. The claims have been amended to clearly claim a method and not the apparatus features.

Claims 1-5, 7, 9, 11, 14, 15 and 17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Jones et al in U.S. Patent No. 6,752,272 ("Jones"). Jones discloses a child-resistant carton package having a polymer film adhesive or extrusion laminated thereon. There is no suggestion or teaching that the polymer is suitable when merely applied as a coating to the paper base material. Further, Jones fails to disclose a locking mechanism between the sleeve and the insert.

In column 6, Jones reveals improving the impenetrability of the sleeve by lamination of one or both sides of the blank sleeve with a polymer film. The polymeric film may be applied by extrusion or adhesive lamination. However, the substrate reinforced with polymers applied by adhesive lamination or extrusion lamination are not similar to substrate reinforced with extrusion coated polymer according to the instant claims. Extrusion lamination is the process of applying the polymeric film to a substrate using an extruded polymer. The molten material is sandwiched between the substrate and the exterior polymeric film, forming a "sandwich" of at least three layers. In contrast, extrusion coating comprises only two layers, the substrate and the extruded polymer. Here the extruded

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polymer is the exterior surface, not the middle layer of a "sandwich." Extrusion coating is a simpler process that does not require the bonding of two or more substrates together at the same time.

Even where the present invention includes two or more extruded layers, it is not the same as a laminated substrate. A substrate that has been extrusion laminated or film laminated will always have a tie layer between the substrate and the polymer film. If several films are attached there will be a tie layer between the films as well. The tie layer has very little effect on the tear resistance or any other characteristics of the board. Another difference is also that the characteristics of the polymers differ depending if it is a film attached or if the polymers are extruded (melted form) on to the board, for example the crystallinity differs. If there are two polymers on top of each other, the structure being laminated will still have tie layers making it different from our product. If we have two polymers that are coextruded i.e. a product with three layers, it still differs from a three layer laminated product (board- tie layer- polymer film) since the tie layer doesn't have the same characteristics.

Normally, a substrate used as a child resistant carton package is reinforced with polymers. Polymers can have different degrees of crystallinity, which is a measure of how the polymers are structured. Extrusion coated polymers have a lower degree of crystallinity compared to polymers used in a film which is laminated to the substrate. Normally the

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degree of crystallinity for extrusion coated polymers is around 5% compared to 40-45% for polymers in films. A lower degree of crystallinity decreases the melting point of the polymers and enhances the sealing characteristics, e.g. the hot-tack/sealing properties. During the sealing of a package made of substrate reinforced with polymers, the temperature of the substrate is raised at a definite area for a certain amount of time. Polymers coated onto the substrate are then melting and a seal is created. Since the polymers of a package reinforced with extrusion coated polymers have lower melting point and better hot-tack/sealing properties, compared to polymers in a film, the sealing time for the package can be strongly shortened and the temperature can be decreased. It is thus much easier to ensure good sealing since the demand on the process properties are decreased.

Also, the substrate is reinforced with one or more extrusion coated polymers, which results in an increased amount of polymers in the sealing area. This ensures a much more secure seal, since there will be a higher amount of polymers present. However, it is important to make sure that the time and temperature is sufficient when the amount of polymers increases. This is especially a problem when a substrate with laminated polymer film is sealed, since the melting temperature of the polymers is quite high and at higher polymer amounts it will be very time and energy consuming to ensure good sealing. Consequently, a child resistant carton package made of substrate reinforced with extrusion

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coated polymer has better sealing properties, which makes it possible to produce a package with a strong seal in a very efficient way. Furthermore, the child resistant carton package according to the invention also has better runnability since the sealing step in the packaging machine is shortened.

Jones reveals only a child resistant package made of a laminated material. The substrate must therefore have at least three layers, the substrate, a laminate film and an extruded polymer, that are bonded together in a single process. There is no disclosure of a package made of an extrusion coated substrate. Further, Jones fails to describe a child resistant package having a locking mechanism between the insert and the sleeve. The locking mechanism of Jones does not include the insert. Thus, since Jones fails to disclose at least two features of Applicant's claims, it cannot be found to be anticipatory under 35 U.S.C. § 102(e). Withdrawal of this rejection and reconsideration of the claims at issue are respectfully requested.

Claims 6 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones, as applied to claims 2 and 14, in view of Holbert et al in U.S. Patent Application Publication No. 2003/0148110 ("Holbert"). Holbert is relied upon to disclose a laminate with an inner reinforcement layer. Arguments with respect to the differences between a laminate and an extrusion coating applied to Jones as asserted above are reasserted here.

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Jones, as well as the combination of Jones and Holbert, fail to disclose an extrusion coated material for a child-resistant package and a locking mechanism between the insert and the outer sleeve. No *prima facie* case of obviousness can be established where the proposed combination fails to reveal each and every feature of the claimed invention. Withdrawal of this rejection and reconsideration of the claims at issue are respectfully requested.

Claims 8, 12 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones, as applied to claims 1 and 2 above, further in view of Schwenk in U.S. Patent No. 3,654,842 ("Schwenk"). Schwenk is relied upon to disclose a polymer shield and heat-sealing with seam overlapping. Arguments with respect to the deficiencies of Jones asserted above are reasserted here. Jones, as well as the combination of Jones and Schwenk, fail to disclose an extrusion coated material for a child-resistant package and a locking mechanism between the insert and the outer sleeve. No *prima facie* case of obviousness can be established where the proposed combination fails to reveal each and every feature of the claimed invention. Withdrawal of this rejection and reconsideration of the claims at issue are respectfully requested.

Applicants respectfully suggest that in the outstanding Action, the rejections evidence "picking and choosing" features of various references and combining them when there is no suggestion in those references to do so. It is impermissible within the framework

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of a 35 U.S.C. § 103 rejection to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art. Furthermore, obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. Teachings of references can be combined only if there is some suggestion or incentive to do so. None of these references, whether cited or of record, taken either alone or in combination, disclose or suggest the invention as claimed. The references do not teach, suggest or exemplify extrusion coating of a substrate to be used in a child resistant package.

By the above arguments and amendments, Applicants believe that they have complied with all requirements expressly set forth in the pending Office Action. Issuance of a Notice of Allowance on the remaining claims is respectfully requested. Should the

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Examiner discover there are remaining issues which may be resolved by a telephone interview, he is invited to contact Applicants' undersigned attorney at the telephone number listed below.

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Respectfully submitted,

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